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DAKO NORTH AMERICA, INC. and DAKO
DENMARK A/S

[Additional Counsel appear on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, ABBOTT
MOLECULAR INC., and ABBOTT
LABORATORIES INC.,

Plaintiffs,

v.

DAKO NORTH AMERICA, INC. and
DAKO DENMARK A/S,

Defendants.

AND RELATED COUNTERCLAIMS

Case No. C 05-03955 MHP

**JOINT NOTICE OF SETTLEMENT AND
MOTION TO VACATE TRIAL DATE;
~~PROPOSED~~ ORDER**

Bench Trial: May 26, 2009
Trial Date: May 27, 2009

The Honorable Marilyn Hall Patel

1 Pursuant to Civil Local Rule 40-1 and Civil Local Rule 7, plaintiffs The Regents of the
2 University of California, Abbott Molecular Inc. and Abbott Laboratories Inc. and defendants
3 Dako North America, Inc. and Dako Denmark A/S (“Defendants”), (collectively “the parties”)
4 hereby jointly provide the Court with Notice of Settlement and respectfully request the Court to
5 vacate the current Tuesday, May 26, 2009 bench trial and Wednesday, May 27, 2009 jury trial
6 dates.

7 On Thursday, May 21, 2009 the parties executed a binding Memorandum of
8 Understanding resolving the claims and counterclaims in the above-entitled litigation. The parties
9 are currently preparing a formal and comprehensive written Settlement Agreement, which will
10 include a dismissal of all claims and counterclaims in this action.

11 To allow the parties sufficient time to prepare and execute the Settlement Agreement and
12 resolve this action, the parties respectfully request the Court vacate the currently scheduled trial
13 dates. The bench trial on inequitable conduct is currently scheduled to begin on Tuesday, May
14 26, 2009. In addition, the jury trial is scheduled to begin on Wednesday, May 27, 2009. The
15 parties expect to have the Settlement Agreement executed and a dismissal of all claims and
16 counterclaims filed within the next thirty days. Accordingly, the parties jointly move the Court
17 for an order vacating the current trial dates. The parties shall notify the Court by June 19, 2009 of
18 the status of the Settlement Agreement if no dismissal is filed before that date.

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1 Dated: May 21, 2009

FENWICK & WEST LLP

2 By: /s/ Lynn H. Pasahow
3 Lynn H. Pasahow

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15 and ABBOTT LABORATORIES INC.
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1 Dated: May 21, 2009

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DAKO NORTH AMERICA, INC. and DAKO

18 DENMARK A/S

19 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

20 I, Carolyn Chang, attest that concurrence in the filing of this document has been obtained
21 from any signatories indicated by a "conformed" signature (/s/) within this e-filed document

22 I declare under penalty of perjury that the foregoing is true and correct. Executed this
23 21th day of May, 2009 in Mountain View, California.

24 /s/ Carolyn Chang

25 Carolyn Chang

~~PROPOSED~~ ORDER

Having reviewed the parties' Notice of Settlement and Joint Motion to Vacate Trial Date, and good cause appearing, it is hereby ORDERED:

1. The May 26, 2009 hearing on inequitable conduct is hereby vacated;
2. The jury trial, scheduled to begin on May 27, 2009, is hereby vacated;
3. The above-entitled action is continued for thirty days pending the execution of a formal Settlement Agreement to include a dismissal of the above-entitled action. The parties shall notify the Court by June 19, 2009 of the status of the litigation if no dismissal of the action is filed by that date.

IT IS SO ORDERED.

Dated: May 22 , 2009

